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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,694	07/03/2001	Elmer L. Cook II	01-4888	1778

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EXAMINER

VO, HAI

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/898,694

Applicant(s)

COOK, ELMER L.

Examiner

Hai Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 17-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Applicant's election of Group I, claims 1-16 in Paper No. 5 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al (US 4,049,852) in view of Okey (US 4,468,431) substantially as set forth in Paper no. 3.
4. Claims 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al (US 4,049,852) in view of Okey (US 4,468,431) as applied to claim 1 above, further in view of Small et al (US 3,607,531) substantially as set forth in Paper no. 3.
5. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al (US 4,049,852) in view of Okey (US 4,468,431) as applied to claim 1 above, further in view of Frank et al (US 4,584,232) as evidenced by Miller et al (US 4,037,751). The combination of the primary and secondary references fails to teach or suggest the reinforcing metallic wire mesh. Frank discloses an insulation panel

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comprising a reinforcing metal mesh sandwiched between the two foam layers (figure 5, column 2, lines 14-15). It is well-known in the art that an aluminum or a galvanized steel is widely used to form a wire mesh because of the good corrosion resistant qualities (US 4,037,751, column 21, lines 10-15, and column 25, lines 39-40). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the reinforcing glass fiber scrim in Smith, Jr. by the steel mesh as taught by Frank motivated by the desire to obtain the laminate having high corrosion resistance and improved strength and durability.

6. Claims 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al (US 4,049,852) in view of Okey (US 4,468,431) and Small et al (US 3,607,531) as applied to claim 3 above, further in view of Frank et al (US 4,584,232) as evidenced by Miller et al (US 4,037,751). The combination of the primary and secondary references fails to teach or suggest the reinforcing metallic wire mesh. Frank discloses an insulation panel comprising a reinforcing metal mesh sandwiched between the two foam layers (figure 5). It is well-known in the art that an aluminum or a galvanized steel is widely used to form a wire mesh because of the good corrosion resistant qualities (US 4,037,751, column 21, lines 10-15, and column 25, lines 39-40). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the reinforcing glass fiber scrim in Smith, Jr. by the steel mesh as taught by Frank motivated by the desire to obtain the laminate having high corrosion resistance and improved strength and durability.

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7. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank et al (US 4,584,232) in view of Okey (US 4,468,431) substantially as set forth in Paper no. 3.
8. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank et al (US 4,584,232) in view of Okey (US 4,468,431) as applied to claim 1 above, further in view of Ogawa (US 4,522,165) substantially as set forth in Paper no. 3.
9. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank et al (US 4,584,232) in view of Okey (US 4,468,431) and as evidenced by Miller et al (US 4,037,751). Frank does not specifically disclose the wire mesh made of aluminum or galvanized steel. Miller discloses a metallic wire mesh formed from aluminum or galvanized steel to provide the good corrosion resistant qualities (column 21, lines 10-15, column 25, lines 39-40). It is well-known in the art that an aluminum or a galvanized steel is widely used to form a wire mesh because of the good corrosion resistant qualities.
10. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank et al (US 4,584,232) in view of Okey (US 4,468,431) as applied to claim 1 above, further in view of Ogawa (US 4,522,165) and as evidenced by Miller et al (US 4,037,751). Frank does not specifically disclose the wire mesh made of aluminum or galvanized steel. Miller discloses a metallic wire mesh formed from aluminum or galvanized steel to provide the good corrosion resistant qualities (column 21, lines 10-15, column 25, lines 39-40). It is well-known in the art that an aluminum or a

galvanized steel is widely used to form a wire mesh because of the good corrosion resistant qualities.

***NEW MATTER***

11. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation that the structural reflective insulating material is **pliable** is found nowhere in Applicant's original specification. According to the dictionary, pliable means "supple enough to bend freely without breaking". Nothing in the specification is specific about the capability to perform bending with ease of the structural reflective insulating material.

***Response to Arguments***

12. The 112 claim rejections with respect to claim 9 have been maintained because the amended claim still contains improper Markush language.

13. The 103 art rejections over Smith, Jr. et al (US 4,049,852) in view of Okey (US 4,468,431) and Mullens et al (US 6,119,465) have been overcome by the present arguments.

14. Applicant's arguments filed 04/15/2003 have been fully considered but they are not persuasive.

The art rejections have been maintained for the following reasons. In the first place, the amended claims contains subject matter which was not described in the specification in

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such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Secondly, the arguments that Smith does not disclose a laminate plank being pliable so it is capable of being formed into ducts and other structural items are not found persuasive. Smith clearly discloses that the laminates are installed in an equatorial position of a spherical tank and the radius of curvature through which the laminate will be bent is large (column 5, line 60 et seq.). Likewise, it is clearly apparent that the laminate plank of Smith is also pliable and capable of being formed into ducts and other items set out in the claims. The same token is applied to the sound absorbing member of Frank. Frank discloses the sound absorbing panel having the bending strength of 20 Newton/mm<sup>2</sup>. Figure 5 of Frank shows that the sound absorbing panel has a structure that is bendable. Further, Frank discloses embedded between the foam layers is a bendable wire mesh (column 2, lines 11-13). Frank is silent as to the reflective foil bound to the foam layer by an adhesive. Okey supplies the missing feature. Okey teaches a composite for use in vibration damping comprising a foam core **10** and a metal foil layer **12** bonded to the foam core by an adhesive **14** (figures 1 and 2). Therefore, it is not seen that the sound panel resulted from Frank reference as modified by Okey would have performed differently from the structural reflective insulating material of the claimed invention. It seems from the claim, if one meets the structure recited, the properties must be met or Applicant's claim is incomplete (Note discussion found in Ex parte Slob, 157 USPQ 172).

**Conclusion**

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on Tue-Fri, 8:30-6:00 and on alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

June 26, 2003



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